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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,255	09/16/2003	Joseph L. Kennedy	72449-022	2865
29493	7590	02/08/2006	EXAMINER	
HUSCH & EPPENBERGER, LLC 190 CARONDELET PLAZA SUITE 600 ST. LOUIS, MO 63105-3441			DESIR, JEAN WICEL	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/663,255	<b>Applicant(s)</b> KENNEDY, JOSEPH L.
	<b>Examiner</b> Jean W. Désir	<b>Art Unit</b> 2614

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1)  Responsive to communication(s) filed on 9/24/04, Pre-Amendment.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

- 4)  Claim(s) 1-34 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-30,33 and 34 is/are rejected.

7)  Claim(s) 31 and 32 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 16 September 2003 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/3/04.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because the reference numbers mentioned in the description page 6 first two paragraphs do not correspond to the reference numbers in Fig. 1 of the drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-30, 33, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al (US 6,351,289) in view of Gadre et al (US 5,995,161).

**Claim 1:**

Chen discloses:

“sizing a Vertical Blanking Interval area in an On Screen Display memory; locating a Vertical Blanking Interval area in an On Screen Display memory”, see Fig. 2 item 24, col. 5 line 52 to col. 6 line 8, col. 6 lines 45-50;

“generating a Vertical Blanking Interval luma waveform bitmap”, see Fig. 7, col. 7 lines 22-24, 66-67;

“and overlaying said Vertical Blanking Interval luma waveform bitmap in a digital video signal according to the gray scale palette, size and location data stored in the On Screen Display memory”, see Fig. 2 item 26, col. 5 lines 17-27;

the difference between the claimed invention and Chen’s disclosure is that Chen does not explicitly “create a gray scale palette in an On Screen Display memory” as claimed. However, the structure of the claimed invention is a notoriously well known technique in the art, as evidence see Gadre at col. 6 lines 38-44, col. 10 lines 9-17, used to add detail to images; an artisan would be motivated to modify Chen in view of Gadre and implement this existing technique to arrive at the claimed invention, because this technique is readily available to the designer and advantageously would enhance the appearance of images. Therefore, the claimed invention would have been obvious to a person of ordinary skill in the art at the time the invention was made.

Claim 2 is disclosed, see Gadre at col. 6 lines 38-44.

Claims 3, 4 are disclosed, see Chen at col. 5 line 52 to col. 6 line 8.

Claim 5 is disclosed, see Chen at col. 3 lines 41-44.

Claim 6 is disclosed, see Chen at col. 5 lines 17-27, Fig. 2 item 26.

Claim 7 is disclosed, see Gadre at col. 3 line 42.

**Claim 8** is rejected for the same reasons as claim 1, because Gadre teaches On Screen Display controller (see Gadre at col. 10 lines 6-17).

Claim 9 is disclosed, see Gadre at col. 6 lines 38-44.

Claims 10, 11 are disclosed, see Chen at col. 5 line 52 to col. 6 line 8.

Claim 12 is disclosed, see Chen at col. 5 lines 17-27, Fig. 2 item 26.

Claim 13 is disclosed, see Gadre at col. 3 line 42.

Claims 14-16 are rejected for the same reasons as claims 9-11.

Claims 17, 18 are disclosed, see Chen at col. 5 line 52 to col. 6 line 30.

Claim 19 is disclosed, see Gadre at col. 5 line 62 to col. 6 line 12, Chen at col. 3 line 60 to col. 4 line 7.

Claim 20 is disclosed, see Gadre at Fig. 1 item 20, col. 10 lines 6-17.

Claims 21-23 are disclosed, see Chen at Fig. 2 item 24, col. 4 lines 3-16, Gadre at col. 10 lines 6-17.

Claim 24 is disclosed, see Chen at col. 5 line 52 to col. 6 line 30, Gadre at Fig. 3 items 98, 94.

Claim 25 is disclosed, see Gadre at col. 5 line 62 to col. 6 line 12, Chen at col. 3 line 60 to col. 4 line 7.

Claim 26: the claimed limitation “wherein said grayscale palette allocates eight bytes per pixel” is not explicitly disclosed by the above implementation, because Gadre does not say the size of the grayscale palette (eight bytes per pixel as claimed); however, the claimed structure is at level of an artisan, because the number of shades of the grayscale would depend on the number of bits per pixel, i.e. the size of the grayscale palette, and different grayscale palette sizes would be used depending on the applications; Therefore, the claimed invention would have been obvious to a person of ordinary skill in the art at the time the invention was made.

Claim 27 is disclosed, see Gadre at Fig. 1 item 38.

Claims 28, 29 are disclosed, see Chen at col. 3 line 60 to col. 4 line 16, col. 5 line 52 to col. 6 line 30.

Claim 30 is disclosed, see Gadre at col. 6 lines 40-57.

**Claim 33** is rejected for the same reasons as claim 1.

**Claim 34** is rejected for the same reasons as claim 8.

### ***Allowable Subject Matter***

4. Claims 31, 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean W. Désir whose telephone number is (571) 272 7344. The examiner can normally be reached on 5/4/9 - First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272 7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**JWD**  
**Jan. 31, 06**



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